

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

REMYLYN ARENAS MASIP
234 W. Kalmia Street, Apt. 108
Fallbrook, CA 92028

Registered Nurse License No. 545159

Respondent.

Case No. 2011-434

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about November 9, 2010, Complainant Louise R. Bailey, M.Ed., RN, in her official capacity as the Executive Officer of the Board of Registered Nursing, Department of Consumer Affairs, filed Accusation No. 2011-434 against Remylyn Arenas Masip, also known as Remlyn Cailao Arenas (Respondent) before the Board of Registered Nursing. (Accusation attached as Exhibit A.)

2. On or about July 10, 1998, the Board of Registered Nursing (Board) issued Registered Nurse License No. 545159 to Respondent. The Registered Nurse License was in full force and effect at all times relevant to the charges brought herein and will expire on October 31, 2011, unless renewed.

3. On or about November 9, 2010, Respondent was served by Certified and First Class Mail copies of the Accusation No. 2011-434, Statement to Respondent, Notice of Defense, Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code

1 section 136 and California Code of Regulations, title 16, section 1409.1, is required to be reported
2 and maintained with the Board, which was and is:

3 234 W. Kalmia Street, Apt. 108
4 Fallbrook, CA 92028

5 4. Service of the Accusation was effective as a matter of law under the provisions of
6 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
7 124.

8 5. Government Code section 11506 states, in pertinent part:

9 (c) The respondent shall be entitled to a hearing on the merits if the respondent
10 files a notice of defense, and the notice shall be deemed a specific denial of all parts
11 of the accusation not expressly admitted. Failure to file a notice of defense shall
12 constitute a waiver of respondent's right to a hearing, but the agency in its discretion
13 may nevertheless grant a hearing.

14 6. Respondent failed to file a Notice of Defense within 15 days after service upon her of
15 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 2011-
16 434.

17 7. California Government Code section 11520 states, in pertinent part:

18 (a) If the respondent either fails to file a notice of defense or to appear at the
19 hearing, the agency may take action based upon the respondent's express admissions
20 or upon other evidence and affidavits may be used as evidence without any notice to
21 respondent.

22 8. Pursuant to its authority under Government Code section 11520, the Board finds
23 Respondent is in default. The Board will take action without further hearing and, based on the
24 relevant evidence contained in the Default Decision Investigatory Evidence Packet in this matter,
25 as well as taking official notice of all the investigatory reports, exhibits and statements contained
26 therein on file at the Board's offices regarding the allegations contained in Accusation No. 2011-
27 434, finds that the charges and allegations in Accusation No. 2011-434, are separately and
28 severally true and correct by clear and convincing evidence.

9. Taking official notice of its own internal records, pursuant to Business and
Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
and Enforcement is \$3,135.00 as of December 20, 2010.

1 **DETERMINATION OF ISSUES**

2 1. Based on the foregoing findings of fact, Respondent Remylyn Arenas Masip has
3 subjected her Registered Nurse License No. 545159 to discipline.

4 2. The agency has jurisdiction to adjudicate this case by default.

5 3. The Board of Registered Nursing is authorized to revoke Respondent's Registered
6 Nurse License based upon the following violations alleged in the Accusation which are supported
7 by the evidence contained in the Default Decision Investigatory Evidence Packet in this case.:

8 a. Respondent subjected her license to disciplinary action under sections 490 and
9 2761, subdivision (f) of the Code in that on or about April 1, 2010, in *People of the State of*
10 *California v. Remylyn Arenas Masip*, San Diego County Superior Court Case No. CN 273142,
11 Respondent pled guilty to a violation of Health and Safety Code section 11550, subdivision (a),
12 using and being under the influence of Methamphetamine, a controlled substance, a crime
13 substantially related to the qualifications, functions, and duties of a registered nurse.

14 b. Respondent subjected her license to disciplinary action under sections 490 and
15 2761, subdivision (f) of the Code in that on or about July 21, 2010, in *People of the State of*
16 *California v. Remylyn Masip a.k.a. Remylyn Arenas Masip*, San Diego County Superior Court
17 Case No. CN278935, Respondent pled guilty to a violation of Health and Safety Code section
18 11364 (possession of paraphernalia used for narcotics, a misdemeanor), a crime substantially
19 related to the qualifications, functions, and duties of a registered nurse.

20 c. Respondent subjected her license to disciplinary action under section 2762,
21 subdivision (b) of the Code in that she unlawfully used controlled substances on November 7,
22 2009, April 6, 2010, and June 29, 2010, conduct substantially related to the qualifications,
23 functions, and duties of a registered nurse.

24 d. Respondent has subjected her license to disciplinary action under section 2762,
25 subdivision (d) in that she was committed or confined by a court for addiction to the use of
26 controlled substances, conduct substantially related to the qualifications, functions, and duties of a
27 registered nurse.

28 ///

1 e. Respondent subjected her license to disciplinary action under section 2761,
2 subdivision (d) in that her conduct, as described above, violated the Board's statutes and is
3 conduct substantially related to the qualifications, functions, and duties of a registered nurse.


4 **ORDER**

5 IT IS SO ORDERED that Registered Nurse License No. 545159, heretofore issued to
6 Respondent Remylyn Arenas Masip, also known as Remlyn Cailao Arenas, is revoked.

7 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a
8 written motion requesting that the Decision be vacated and stating the grounds relied on within
9 seven (7) days after service of the Decision on Respondent. The agency in its discretion may
10 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

11 This Decision shall become effective on March 17, 2011.

12 It is so ORDERED February 15, 2011.

13 
14 FOR THE BOARD OF REGISTERED NURSING
15 DEPARTMENT OF CONSUMER AFFAIRS

16 DOJ Matter ID: SD2010701853

17 Attachment:
18 Exhibit A: Accusation

26
27
28
RECEIVED
FEB 16 2011
10:00 AM
4

Exhibit A

Accusation

RECEIVED 11-10-15
FBI

1 EDMUND G. BROWN JR.
Attorney General of California
2 JAMES M. LEDAKIS
Supervising Deputy Attorney General
3 KATHLEEN B.Y. LAM
Deputy Attorney General
4 State Bar No. 95379
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2091
7 Facsimile: (619) 645-2061
Attorneys for Complainant

8
9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2011-434

13 **REMYLYN ARENAS MASIP, RN**
234 W. Kalmia Street, Apt. 108
14 Fallbrook, CA 92028

ACCUSATION

15 **Registered Nurse License No. 545159**

16 Respondent.

17
18
19 Complainant alleges:

20 **PARTIES**

21 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
22 official capacity as the Interim Executive Officer of the Board of Registered Nursing (Board),
23 Department of Consumer Affairs.
24 2. On or about July 10, 1998, the Board issued Registered Nurse License Number
25 545159 to Remylyn Arenas Masip (Respondent). The Registered Nurse License was in full force
26 and effect at all times relevant to the charges brought herein, and will expire on October 31, 2011,
27 unless renewed.

28 ///

JURISDICTION

3. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2750 of the Business and Professions Code (Code) provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the lapsing or suspension of a license by operation of law or by order of decision of the board shall not deprive the board of jurisdiction to proceed with any investigation of or action or disciplinary proceedings against such license.

6. Section 2811(b) of the Code provides, in pertinent part, that each license not renewed in accordance with this section shall expire but may within a period of eight years thereafter be reinstated upon payment of the biennial renewal fee and penalty fee required by this chapter.

STATUTORY JURISDICTION

7. Section 482 of the Code provides, in pertinent part, that the Board shall develop criteria to evaluate the rehabilitation of a person when considering suspension or revocation of a license, and that the Board shall take into account all competent evidence of rehabilitation furnished by the licensee.

8. Section 490 of the Code provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued..

9. Section 493 of the Code states:

"Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the

1 qualifications, functions, and duties of the licensee in question, the record of conviction of the
2 crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact,

3 and the board may inquire into the circumstances surrounding the commission of the crime in
4 order to fix the degree of discipline or to determine if the conviction is substantially related to the
5 qualifications, functions, and duties of the licensee in question.

6 "As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and
7 'registration.'"

8 10. Section 2761 of the Code states:

9 "The board may take disciplinary action against a certified or licensed nurse or deny an
10 application for a certificate or license for any of the following:

11 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

12 "..."

13 "(d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
14 violating of, or conspiring to violate any provision or term of this chapter [the Nursing Practice
15 Act] or regulations adopted pursuant to it.

16 "..."

17 "(f) Conviction of a felony or of any offense substantially related to the qualifications,
18 functions, and duties of a registered nurse, in which event the record of the conviction shall be
19 conclusive evidence thereof.

20 11. Section 2762 of the Code states, in pertinent part:

21 "In addition to other acts constituting unprofessional conduct within the meaning of this
22 chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this
23 chapter to do any of the following:

24 "..."

25 "(b) Use any controlled substance as defined in Division 10 (commencing with Section
26 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in
27 Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to
28

1 himself or herself, any other person, or the public or to the extent that such use impairs his or her
2 ability to conduct with safety to the public the practice authorized by his or her license.

3 "(c) Be convicted of a criminal offense involving the prescription, consumption, or
4 self-administration of any of the substances described in subdivisions (a) and (b) of this section,
5 or the possession of, or falsification of a record pertaining to, the substances described in
6 subdivision (a) of this section, in which event the record of the conviction is conclusive evidence
7 thereof.

8 "(d) Be committed or confined by a court of competent jurisdiction for intemperate use of
9 or addiction to the use of any of the substances described in subdivisions (a) and (b) of this
10 section, in which event the court order of commitment or confinement is prima facie evidence of
11 such commitment or confinement.

12 " "

13 12. Section 2765 states, in pertinent part, that a plea or verdict of guilty or a conviction
14 following a plea of nolo contendere made to a charge substantially related to the qualifications,
15 functions and duties of a registered nurse is deemed to be a conviction within the meaning of this
16 article.

17 REGULATORY PROVISIONS

18 13. California Code of Regulations, title 16, section 1444, states:

19 "A conviction or act shall be considered to be substantially related to the qualifications,
20 functions or duties of a registered nurse if to a substantial degree it evidences the present or
21 potential unfitness of a registered nurse to practice in a manner consistent with the public health,
22 safety, or welfare. Such convictions or acts shall include but not be limited to the following:

23 "(a) Assaultive or abusive conduct including, but not limited to, those violations listed in
24 subdivision (d) of Penal Code Section 11160.

25 "(b) Failure to comply with any mandatory reporting requirements.

26 "(c) Theft, dishonesty, fraud, or deceit.

27 "(d) Any conviction or act subject to an order of registration pursuant to Section 290 of the
28 Penal Code."

1 14. California Code of Regulations, title 16, section 1445 states, in pertinent part:

2 “....

3 “(b) When considering the suspension or revocation of a license on the grounds that a
4 registered nurse has been convicted of a crime, the board, in evaluating the rehabilitation of such
5 person and his/her eligibility for a license will consider the following criteria:

6 “(1) Nature and severity of the act(s) or offense(s).

7 “(2) Total criminal record.

8 “(3) The time that has elapsed since commission of the act(s) or offense(s).

9 “(4) Whether the licensee has complied with any terms of parole, probation, restitution or
10 any other sanctions lawfully imposed against the licensee.

11 “(5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the
12 Penal Code.

13 “(6) Evidence, if any, of rehabilitation submitted by the licensee.”

14 COST RECOVERY

15 15. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
16 administrative law judge to direct a licensee found to have committed a violation or violations of
17 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
18 enforcement of the case.

19 FIRST CAUSE FOR DISCIPLINE

20 (April 1, 2010, Criminal Conviction for Being Under the Influence on November 27, 2009)

21 16. Respondent is subject to disciplinary action under sections 490 and 2761(f) in that she
22 was convicted of a crime that was substantially related to the qualifications, functions, and duties
23 of a registered nurse. The circumstances are as follows:

24 17. On or about November 27, 2009, at approximately 10:17 p.m., Respondent was
25 contacted by an Escondido Police Department officer after he received a radio call of a subject
26 repeatedly calling “911” about a disturbance with her husband at a local hotel. Respondent told
27 the officer that she was involved in an argument with her husband, who left the location.
28 Respondent said that the front desk clerk called her room and told her that her husband was

1 calling the hotel and whispered into the phone. The officer observed that Respondent's pupils
2 were overly dilated, she had an extremely dry mouth, her lips were coated white, and her tongue
3 and mouth were making a smacking sound. She spoke quickly, and repeated things over and over
4 again. She displayed "eyelid shutters" and severe mood fluctuation. Her heart rate was beating at
5 160 bpm, and she admitted that she had used Methamphetamine at approximately 8 p.m.
6 Respondent was placed under arrest for being under the influence of a controlled substance, and
7 became very uncooperative. She was transported to Escondido Police Department, where a vial
8 of blood was taken from her. She was transported to Vista Detention Facility, but was rejected
9 because of her high heart rate. She was then taken to Palomar Medical Center where she
10 attempted to flee from the room she was in.

11 18. On or about April 1, 2010, in *People of the State of California v. Remlyn Arenas*
12 *Masip*, San Diego County Superior Court Case No. CN 273142, Respondent pled guilty to a
13 violation of Health and Safety Code section 11550(a), using and being under the influence of
14 Methamphetamine, a controlled substance.

15 19. On or about April 1, 2010, Respondent was sentenced to 5 years summary probation.
16 Conditions of probation included 20 days custody with credit for time served, an additional 90
17 days of custody stayed upon successful completion of probation and treatment in an alcohol/drug
18 treatment program, HIV/AIDS education, 4th Amendment search and seizure waiver, and fines.

19 20. As a result of the plea of guilty in Case No. CN 273142, *People of the State of*
20 *California v. Remlyn Masip*, San Diego County Superior Court Case No. CN 275104, was
21 dismissed in the furtherance of justice.

22 SECOND CAUSE FOR DISCIPLINE

23 (July 21, 2010, Criminal Conviction for Possession of Paraphernalia on June 29, 2010)

24 21. Respondent is subject to disciplinary action under sections 490 and 2761(f) in that she
25 was convicted of a crime that was substantially related to the qualifications, functions, and duties
26 of a registered nurse. The circumstances are as follows:

27 22. On or about June 29, 2010, the San Diego County Sheriff's Department received a
28 call regarding a female causing a disturbance in front of her home in Fallbrook, California. When

1 an officer responded, they observed a female, later identified as Respondent, sitting on a bench.
2 As the officer approached Respondent, she shouted "I am God, leave now or I will kill you." The
3 officer called for a cover unit, and observed that Respondent's eyes were red and bloodshot, her
4 eyelids were fluttering and she could not hold them still. Respondent was very agitated, she had
5 dry/cotton mouth, her tongue had a beige colored coating on it, and she kept smacking her lips
6 together and grinding her teeth. Her pupils appeared dilated. Respondent was speaking
7 incoherently. When the cover unit arrived, the officers received permission to enter Respondent's
8 home to obtain her identification. When the officers returned, they stated they looked in
9 Respondent's purse in the master bedroom area, and discovered a syringe on the counter and a
10 glass pipe in the closet where the purse was located. The syringe is used to inject drugs and the
11 pipe is used to smoke drugs. Respondent could not complete the subjective tests administered by
12 the officers. A presumptive test of the residue found inside the glass pipe tested positive for .68
13 grams of methamphetamine. Respondent was charged with possession of a controlled substance
14 and possession of paraphernalia.

15 23. At the sheriff sub-station in Fallbrook, Respondent stated that she was dizzy, didn't
16 feel well, and asked for a doctor. Paramedics were dispatched and she was transported to the
17 hospital. Respondent could not sit still at the hospital, and she kept drawing imaginary pictures
18 on her face and hospital bed. She was incoherent. She stated that she dated President Obama,
19 that they almost made love, and she made him the president. She kept pointing to hairs on her
20 leg, and stated that the hairs were hers, her families, and other family members. The officer who
21 escorted Respondent to the hospital asked that a blood sample be taken of Respondent. The test
22 came back positive for amphetamines. Respondent was transported to the Vista Jail after her
23 release from the hospital.

24 24. On or about July 21, 2010, in *People of the State of California v. Remylyn Masip*
25 *a.k.a. Remylyn Arenas Masip*, San Diego County Superior Court Case No. CN278935,
26 Respondent pled guilty to a violation of Health and Safety Code section 11364 (possession of
27 paraphernalia used for narcotics, a misdemeanor). As a result of the plea, the remaining counts
28 (Ct. 1 – Health & Safety Code section 11377(a) – possession of a controlled substance, to-wit:

1 methamphetamine; Ct. 2 – Health & Safety Code section 11550(a) – under the influence of a
2 controlled substance; and Ct. 4 – Business & Professions Code section 4140 – unauthorized
3 possession of hypodermic needle or syringe) were dismissed.

4 25. On or about July 21, 2010, Respondent was denied probation, and sentenced to 44
5 days in the County Jail, with credit for time served.

6 **THIRD CAUSE FOR DISCIPLINE**

7 **(Unlawful Use of Controlled Substances)**

8 26. Respondent is subject to disciplinary action under section 2762(b) in that she
9 unlawfully used controlled substances, as described in paragraphs 16 through 25, above.

10 **FOURTH CAUSE FOR DISCIPLINE**

11 **(Unlawful Use of Controlled Substances)**

12 27. Respondent is subject to disciplinary action under section 2762(b) in that she
13 unlawfully used controlled substances. The circumstances are as follows:

14 28. On or about April 6, 2010, at approximately 6:57 a.m., San Diego County Sheriff's
15 Officers received a call of a suspicious person, subsequently identified as Respondent, in the
16 storage shed of a homeowner in Fallbrook, California. The reporting party, B.B., stated that he
17 woke up around 6:20 a.m. and saw an unknown vehicle parked in front of his residence. He
18 noticed a cell phone on the ground next to the vehicle. He walked over to his shed at the rear of
19 his property. When he opened the door, he saw Respondent in the fetal position, sleeping. He
20 took her into his house to warm her up, and called the police. The deputies who responded to the
21 call recognized Respondent from prior contacts. Because Respondent had a 4th Amendment
22 search and seizure waiver from a prior criminal case, the deputies searched her and her vehicle.
23 They discovered a toy stuffed elephant which contained a glass pipe wrapped in white paper. The
24 pipe had burnt residue in the bowl and was consistent with the type of pipe used to smoke
25 methamphetamine. The deputies also found a small black cloth bag containing a white crystal
26 substance. A presumptive test was conducted, and the substance was determined to be
27 approximately .12 grams of methamphetamine. Respondent was arrested for possession of
28 controlled substances and paraphernalia.

1 **FIFTH CAUSE FOR DISCIPLINE**

2 **(Confinement for Addiction to Controlled Substances)**

3 29. Respondent is subject to disciplinary action under section 2762(d) in that she was
4 committed or confined by a court for addiction to the use of controlled substances, as described in
5 paragraphs 17-25, inclusive.

6 **SIXTH CAUSE FOR DISCIPLINE**

7 **(Violation of Board Statutes or Regulations)**

8 30. Respondent is subject to disciplinary action under section 2761(d) in that she violated
9 the Board's statutes as described in paragraphs 17-20, 22-25, and 28, inclusive.

10 **PRAYER**


11 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
12 and that following the hearing, the Board of Registered Nursing issue a decision:

13 1. Revoking or suspending Registered Nurse License Number 545159, issued to
14 Remylyn Arenas Masip;

15 2. Ordering Remylyn Arenas Masip to pay the Board of Registered Nursing the
16 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
17 Professions Code section 125.3; and

18 3. Taking such other and further action as deemed necessary and proper.

19
20 DATED: 11/9/10

for 
LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

25 SD2010701853
26 70364006.doc